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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,997	03/16/2001	Giann-Jyh (James) Lay	023925-00005	5092

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EXAMINER

HUYNH, KIM NGOC

ART UNIT

PAPER NUMBER

2182

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,997

Applicant(s)

LAY, JIANN-JYH (JAMES)

Examiner

Kim Huynh

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. An applicant's duty of disclosure of material and information is not satisfied by presenting a patent examiner with "a mountain of largely irrelevant [material] from which he is *presumed* to have been able, with his expertise and with adequate time, to have found the critical [material]. It ignores the real world conditions under which examiners work." *Rohm & Haas Co. v. Crystal Chemical Co.*, 722 F.2d 1556, 1573 [220 USPQ 289] (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (Emphasis in original). Patent applicant has a duty not just to disclose pertinent prior art references but to make a disclosure in such way as not to "bury" it within other disclosures of less relevant prior art; See *Golden Valley Microwave Foods Inc. v. Weaver Popcorn Co. Inc.*, 24 USPQ2d 1801 (N.D. Ind. 1992); *Molins PLC v. Textron Inc.*, 26 USPQ2d 1889, at 1899 (D.Del. 1992); *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc. et al.*, 175 USPQ 260, at 272 (S.D. Fl. 1972).

Eliminate clearly irrelevant and marginally pertinent cumulative information is desirable to avoid submission of long lists of documents. If a long list is submitted, highlight those documents which have been specifically brought to applicant's attention and/or are known to be of most significance. See *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972), *aff'd*, 479 F.2d 1338, 178 USPQ 577 (5th Cir. 1973), *cert. denied*, 414 U.S. 874 (1974). But cf. *Molins PLC v. Textron Inc.*, 48 F.3d 1172, 33 USPQ2d 1823 (Fed. Cir. 1995).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

Art Unit: 2182

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-10 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons et al. (US 6,167,054).

Claims 1 and 8, Simmons discloses a method of flow control management of data packets having steps of determining each time data is written to/freed from memory (col. 11, l. 62 through col. 12, l. 28) and calculating how much total memory is being used (via free buffer counter 246) and comparing the total memory to a first predetermined threshold (low) and issue a command indicating a threshold has been reached which indicates that the memory is becoming full (see Fig. 6, 214-224).

Claim 2-5, Simmons discloses the step of determining data being written/freed from memory comprising step of receiving indication that the memory has successfully received or transmit the data packet over the bus (col. 12, last paragraph).

Claims 6-7, Simmons discloses the steps of calculating total memory used by increment and decrement a counter each time data is being written/read to/from memory.

Claims 9-10, Simmons discloses step of comparing and issuing a command when a second threshold is reach (high), as for the recitation that the command is indicates data being dropped. Please note that during the suspension of data transmission (PAUSE period), no data is being transmitted/received by the network, it is inherent that data transmitted to the switch is being dropped during that period.

Claims 15-19, Simmons discloses the apparatus for performing the method of above with memory interface 32 connected to the bus and memory (34 and 104), receive and transmit ports 64-66, flow control manager 12 having bus monitor 65, counter 246 and comparator (214-222) wherein bus monitors the data packets transmitted and counter is incremented and decremented per data is written/read into the memory (col. 11, l. 62 through col. 12, l. 28).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-14 and 20-23 are rejected under 35 U.S.C. 103(a) as being obvious over Simmons in view of Karlson et al (US 6,535,942).

Claims 11 and 20, Simmons discloses an apparatus to manage the flow control of data packets in a switch as discussed above and also discloses the using DMA transaction for transferring data to/from the memory (col. 7, ll. 29-34). Simmons does not specifically disclose the use of start and end pointers to point to the list of memory addresses to determine the amount of memory being used. Karlson teaches that it is desirable to utilize start and end pointers logic in DMA transactions in order to reduce interruption load (abstract). It would have been obvious to one having ordinary skill in

Art Unit: 2182

the art to implement the teaching of Karlson in the DMA transaction of Simmons in order to take advantage of reduced interruption load to the buffer manager 65.

Claims 16-19 and 21-23 are similar to claims 2-5 and 9-10 and therefore are rejected accordingly.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bonola (US 6,178,473) discloses an apparatus for flow control having start and end pointer and incrementing counter only after confirmation of when successful operation. Sherlock (US 6,269,413) discloses a flow control method having linked list data structure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Huynh whose telephone number is (703) 308-1678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Kim Huynh
Primary Examiner
Art Unit 2182

KH
July 23, 2003